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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,871	12/08/2003	Jeff Abel	22356.CON.CIP	4765

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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/730,871

Applicant(s)

ABEL, JEFF

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4-8-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **Detailed Action**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 10-11, 13 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,530,610 to Bremer.

Referring to claims 1, 10 and 22-23, Bremer discloses a net for a sport fishing net device having a substantially hoop-shaped frame portion – at 2, the net comprising a bag of permeable material – at 4 or 6, having a closed lower end and an open upper end – see figures 1-3, and a selectively releasable elongate fastener – at 9-11, extending along the upper end of the bag, configured to releasably secure the upper end of the bag to the hoop-shaped frame portion – see for example figures 1-3.

Referring to claims 3 and 13, Bremer discloses the fastener is buttons – at 10-11.

Referring to claim 11, Bremer discloses the frame further comprises a handle – at 3, attached to the hoop-shaped portion – see figure 1.

Claims 1-3, 10-13 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,169,331 to Baker.

Referring to claims 1, 10 and 22-23, Baker discloses a net having a substantially hoop-shaped frame portion – at 12, the net comprising a bag of permeable material – at 28, having a closed lower end and an open upper end – see figure 1, and a selectively releasable elongate fastener – at 16, extending along the upper end of the bag, configured to releasably secure the upper end of the bag to the hoop-shaped frame portion – see for example figures 1-3.

Referring to claims 2 and 12, Baker discloses the upper end portion of the bag comprises a flexible rim having opposing portions – see figures 1-6, configured to wrap around the hoop-shaped frame portion – see figures 1, 3 and 6, the selectively releasable elongate fastener – at 16, being disposed along the opposing portions of the rim – see for example figures 1-6.

Referring to claims 3 and 13, Baker discloses the elongate fastener is snaps – such as items 64 and 66.

Referring to claim 11, Baker discloses a handle – at 14, attached to the hoop-shaped frame – at 12 – see figure 1.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,012,351 to Vieaux. Vieaux discloses a net for a sport fishing net device having a substantially hoop-shaped frame portion having a perimeter, the net comprising, a bag – at 8, of permeable net material, having a closed lower end and an open upper end having a flexible rim – see figures 1-3, and a zipper – at 10-13, extending along the flexible rim, configured to releasably wrap the rim around the hoop-shaped portion so as to releasably secure the bag to the frame portion along a majority of the perimeter of the frame portion – see for example figures 1-3.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6-9, 14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bremer or Baker as applied to claim 1 above, and further in view of FR Patent No. 2582190 to Chat.

Referring to claims 4 and 14, Bremer and Baker do not disclose the bag includes a length measuring scale, permanently disposed generally linearly on a surface of the net material. Chat does disclose a length measuring scale – see the drawing figure, permanently disposed on a surface of the net material – see the drawing figure. Therefore it would have been obvious to one of ordinary skill to take the device of Bremer or Baker and add the length measuring scale of Chat, so as to allow the user to measure the size of any object placed in the net.

Referring to claims 6 and 16, Bremer as modified by Chat and Baker as modified by Chat further disclose the length measuring scale includes length markings – see the drawing figure of Chat, and numeral designations associated with the length markings – see the drawing figure of Chat.

Referring to claims 7 and 17, Bremer as modified by Chat and Baker as modified by Chat further disclose the bag includes a bottom at a closed end and the length markings include a zero

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point near the bottom, with two coordinated scales sharing the zero point and extending in opposing directions therefrom, whereby a user may visually determine the length of a fish held in the bag by substantially aligning the fish with the length scale and adding the numeral designations which are approximately aligned with opposing ends of the fish – see the drawing figure of Chat.

Referring to claims 8 and 18, Bremer as modified by Chat and Baker as modified by Chat further disclose the length measuring scale includes length markings representing standard units of length – see for example the drawing figure of Chat.

Referring to claims 9 and 19, Bremer as modified by Chat and Baker as modified by Chat further disclose the length measuring scale includes length markings representing modified units of length to compensate for curvature of a fish held in the bag – see for example the drawing figure of Chat.

Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bremer as modified by Chat or Baker as modified by Chat as applied to claims 4 and 14 above, and further in view of U.S. Patent No. 2,765,535 to Weber. Bremer as modified by Chat and Baker as modified by Chat further disclose the measuring scale extends from a first position, thence substantially across the closed end, to a second position substantially opposite the first position – see for example the drawing figure of Chat. Bremer as modified by Chat or Baker as modified by Chat do not disclose the measuring scale is adjacent the upper end of the bag. Weber does disclose the length measuring scale is adjacent the upper end of the bag – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Bremer as modified by Chat and Baker as modified by Chat and add the measuring scale

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extending along the upper end of the bag of Weber, so as to allow for the device to accurately measure the object in the bag.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker. Baker discloses a net system comprising, a net frame – at 12, having a hoop-shaped portion – see figure 1, a plurality of bags – at 28, of permeable net material, each bag having a closed lower end and an open upper end – see figure 1, and including a selectively releasable elongate fastener – at 16, extending along the upper end of the bag, configured to releasably connect the bag to the hoop-shaped frame portion such that any of the plurality of bags may be connected to the hoop-shaped portion of the net frame – see figures 1-6. Baker does not disclose a plurality of net frames, however duplicating components for multiple effect does not render a claimed invention patentable over the prior art as seen in, *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) and MPEP section 2144.04.

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to fishing nets in general:

U.S. Pat. No. 2,597,447 to Bruns – shows net with snap connectors

U.S. Pat. No. 2,921,397 to Luthi – shows net with zipper

U.S. Pat. No. 4,065,835 to Yoneya – shows net with zipper

U.S. Pat. No. 4,481,117 to Collins – shows net with elongated fastener

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U.S. Des. No. 367,102 to McLeaf – shows net with zipper

JP Pat. No. 4-75545 – shows net with zipper

JP Pat. No. 10-286044 – shows net with zipper


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

6/23/01